

**Letter of Findings: 01-20130168
Individual Income Tax
For the Years 2009, 2010, and 2011**

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ISSUE

I. Shareholder Income – Individual Income Tax.

Authority: IC § 6-8.1-5-1(c); Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289 (Ind. Tax Ct. 2007); [45 IAC 3.1-1-66](#).

Taxpayer argues that the Department of Revenue's audit erred when it assessed Taxpayer additional individual income tax.

STATEMENT OF FACTS

Taxpayer is a shareholder in an S-corporation. The S-corporation operates a combination gas station and convenience store. The Department of Revenue (Department) conducted an audit review of the gas station/convenience store. After reviewing the S-corporation's business records and tax returns, the audit adjusted the S-corporation's gross receipts. The adjustment resulted in additional taxable income which "flowed through" to the individual Taxpayer. Taxpayer disagreed with both of the individual and business audit adjustments and filed protests to that effect. An administrative hearing was conducted during which Taxpayer's representative explained the basis for the individual income tax protest. The S-corporation's protest is addressed in a separate Letter of Findings. This Letter of Findings addresses the individual income tax assessment.

I. Shareholder Income – Individual Income Tax.

DISCUSSION

Without providing specific objections, Taxpayer objects in general to the assessment of additional individual income tax.

An S corporation such as Taxpayer's gas station/convenience store normally does not pay income tax. [45 IAC 3.1-1-66](#), states that, "Corporations electing Subchapter S status under Internal Revenue Code § 1372... are exempt from adjusted gross and supplemental net income tax on all income except capital gains...." Rather than taxing the income at the business level, the S corporation's income is passed through to the shareholders. The shareholders then must report the income on their own income tax return. [45 IAC 3.1-1-66](#) states that, "Subchapter S corporation shareholders are taxed on their distributive shares of income at the individual income tax rate."

As in any assessment, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." Indiana Dep't of State Revenue v. Rent-A-Center East, Inc., 963 N.E.2d 463, 466 (Ind. 2012); Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007).

Taxpayer has provided no substantive arguments which would form the basis for adjusting the amount of income tax owed. Presumably, if the S-corporation's assessment is adjusted the results would "flow-through" to the Taxpayer. However, as mentioned previously, the S-corporation's protest is addressed in a separate Letter of Findings.

Taxpayer has not met his burden of demonstrating that the proposed assessment of individual income tax was wrong.

FINDING

Taxpayer's protest is respectfully denied.

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